SBCivil Writ Petition No.2297/2005

Om Prakash Sharma
Vs.
Judge, Labour Court, Jodhpur & Ors.

Date of Order :: 9th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sanjeet Purohit, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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While considering the application under Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act of 1947") the Labour Court, Jodhpur dismissed an application submitted by the workman to summon certain documents in evidence said to be in possession of the employer. The Labour Court while rejecting the application also imposed a cost of Rs.200/- upon the workman. Being aggrieved by the same this petition for writ is preferred.

In brief, facts of the case are that by application under Section 33-C(2) of the Act of 1947 the workman claimed for grant of regular pay scale from the date he was declared semi permanent with interest and compensation. In written an objection was raised by the employer with regard to maintainability of the application on the count that under Section 33-C(2) of the Act of 1947 it was not open for the Labour Court to determine the rights. After receiving written

on behalf of the workman an application was preferred to summon certain documents to establish the fact that rights of the workman have already been determined and the workman wanted only computation of money. The Labour Court by order impugned dated 22.2.2005 rejected the application on the count that the documents sought to be called for are already in possession of the workman and the application is preferred only to prolong the matter. On this count the Labour Court also imposed a cost of Rs.200/-.

While giving challenge to the order aforesaid, it is contended by counsel for the petitioner that the documents sought to be summoned by the workman are necessary for adjudication of the application as on basis of those documents the workman could have proved that the pay scale has already bee give to other similarly situated workmen on being declared semi permanent. He has further stated that there was no occasion for imposing cost of Rs.200/- while rejecting the application.

No reply to the writ petition has been filed on behalf of the respondents.

Heard counsel for the parties.

The workman by way of filing an application under Section 33-C(2) of the Act of 1947 claimed for

regular pay scale on being declared semi permanent. It is not in dispute that a workman on being declared semi permanent become entitled for getting regular pay scale. If the respondents did not allow regular pay scale to the workman even after declaring him semi permanent, the workman was certainly entitled to get the pay computed under Section 33-C(2) of the Act of 1947. If the workman preferred an application to summon the documents for grant of pay scale to other similarly situated persons, the Labour Court must have directed the employer to produce the same. A Labour Court while adjudicating an industrial dispute is not required to adhere all technicalities as required to be adopted while adjudicating a civil dispute by regular civil courts. The anxiety of the Labour Court should be of deciding the issue before it by making all best efforts to extend benefit of social welfare legislation to the workman. I do not find any just and valid reason in the order impugned for not summoning the documents concerned. I am also surprised to note that the Labour Court choose to impose a cost of Rs.200/- on a workman while rejecting the application for summoning documents. There is no provision under the Act of 1947 or the Rules framed thereunder to impose such a cost. The Act of 1947 also not empowers Labour Court with any inherent power empowering it to impose cost upon the workman while rejecting the application.

In view of whatever discussed above this petition for writ is allowed, the order impugned dated 22.2.2005 passed by the Labour Court is quashed. The application preferred by the workman to summon the documents from the employer is allowed. The cost imposed by the order dated 22.2.2005, if already recovered or deposited shall be refunded to the petitioner.

(GOVIND MATHUR),J.

kkm/ps.